

**PUBLIC MEETING**  
**March 7, 2006**

Chair Anita Varone called the meeting to order at 9:00 a.m.

Commissioner Tinsley is present. Commissioner Murray was in Washington, D.C.

Others attending all or portion of the meeting included Ron Alles, Jerry Grebenc, Cheryl Green, Linda Stallings, Dan Felska, Bill Ries, Greg McNally, Lindsay Morgan, V.L. "Pat" Jones, Dean Retz, Jim Taylor, John Baucus, Debbie Anderson, Amy Teegarden, Robin LeNeve, Robert Braico, William Spilker and Maria Penna.

Pledge of Allegiance. Everyone recited the pledge.

Consent Items. Ron Alles reported on the consent agenda items.

- a. Request for One-Year Extension to 2/24/07 of Preliminary Plat Approval for the Wade Minor Subdivision. (Applicant, Wade Rae) (Planner, Michael McHugh)
- b. Resolution Ordering a Refund of Taxes/Fees/Assessments Paid. \$127.71 to Montana Capital Management, LLC. (Cheryl Green)
- c. Resolution Ordering a Refund of Taxes/Fees/Assessments Paid. \$60.28 to Charles W. and Carolyn M. Byerly. (Cheryl Green)
- d. Resolution Ordering a Refund of Taxes/Fees/Assessments Paid. \$382.44 to Robert Ellsworth Jewell. (Cheryl Green)

Commissioner Tinsley moved approval of the consent action items and authorize the Chair to sign. Commissioner Varone seconded the motion and it carried 2-0.

Presentation of Youth Forest Monitoring Program and Budget Request. Liz Burke, Helena National Forest Program Manager, presented an update of the program and a request for \$18,700 of Title III funds. With the Commission's continued support, the program has been successfully expanded into the Lincoln area. The program also has expanded its partnership base with Powell County, UM Helena College of Technology, Jefferson County, and the school districts.

Commissioner Tinsley moved approval of the proposed budget request in the amount of \$18,700 from Title III funds and authorize the Chair to sign. Commissioner Varone seconded the motion and it carried 2-0.

Proposed Minor Subdivision, Preliminary Plat to be known as Silver Acres Subdivision.

(Applicant, V.L. "Pat" Jones) (Planner, Lindsay Morgan) The applicant proposes to create two lots, each for one single-family dwelling. Both lots already exist however; these lots were created through an agricultural exemption. Tract 3-A-1 (2.04 acres) is currently developed with a single-family residence and outbuildings, and is served by an individual well, an individual on-site wastewater treatment system, and utilities. Tract 5-A-2 (20.00 acres) has agricultural covenant placed on it. The proposed development is generally located south of Lincoln Road, east of and adjacent to Birdseye Road. The applicant was present and indicated his willingness to proceed.

Lindsay Morgan presented the staff report. Access to the subject property will be Birdseye Road via Silver Acres Road. Silver Acres Road is currently an existing road 12 feet in width. Staff recommends a 50-foot building setback from the easement with Birdseye Road for wells, drain fields, replacement drain fields, irrigation facilities, and any structures, which include dwellings, garages, and barns. Prior to the final plat approval, the applicant must dedicate a 60-foot wide public access and underground utility easement for Silver Acres Road from its junction of Birdseye to the terminus of the required emergency vehicle turnaround. Currently this road is 60-foot wide private access easement. To the east of the required emergency vehicle turnaround, staff recommends the applicant dedicate a 30 foot wide public access and underground utility easement along the northern property boundary of Lots 3-A-1 and 5-A-2 and along the eastern property boundary of Lot 5-A-2. A stop sign and road identification sign shall be installed at the junction of Silver Acres Road with Birdseye Road. A no access restriction shall be required along Birdseye Road with the exception of the access for Silver Acres Road. The applicant is requesting two variances from County Subdivision Regulations: (1) Silver Acres Road lacks an emergency vehicle turnaround; and (2) Silver Acres Road does not meet county road standards (typical section #1). The Canyon Creek Fire District has requested a fee of \$1,000 per newly created lot for fire protection services. Staff recommends a 15-foot building setback be required from all property lines for fire protection. Any existing buildings would be grandfathered. Staff recommends approval of the subdivision proposal subject to the 17 conditions outlined in the staff report.

The applicant had no comments.

Commissioner Tinsley moved to render a decision on Tuesday, March 14 at its regularly scheduled public meeting. Commissioner Varone seconded the motion and it carried 2-0.

Proposed Minor Subdivision, Preliminary Plat to be known as Cape Place Minor. (Applicant, Sieben Ranch Co., John Baucus) (Planner, Greg McNally) (cont. from 2/28/06). The applicant proposes to create one 7.07-acre tract from an existing 633.48-acre tract for one single-family dwelling and a bunkhouse for rent, lease or other conveyance. The remaining 626.41 acres is exempt from subdivision review. The proposed subdivision is generally located east of the Canyon Creek store and north of and adjacent to Duffy Lane.

At the last meeting, the Commission directed staff to contact the Canyon Creek Fire District to discuss the feasibility of whether or not fire protection vehicles could access the proposed internal road to be known as Cape Place Drive. The fire department spokesperson indicated there was enough room for access for emergency vehicle travel on that particular road. The fire chief also inspected a recently installed culvert on to the proposed internal access road and it appears to be substantial to carry traffic.

Variance 1. From the stipulation that dead-end roads not exceed 700 feet in length. Commissioner Tinsley moved approval of the variance request. Commissioner Varone

seconded the motion and it carried 2-0.

Variance 2. From the requirement to improve Cape Place Drive to County Road Gravel Standard, Typical Section No. 1. Commissioner Tinsley moved approval of the variance request. Commissioner Varone seconded the motion and it carried 2-0.

Variance 3. From the requirement to provide a 60' public access easement along Cape Place Drive. Commissioner Tinsley moved approval of the variance request. Commissioner Varone voted against the motion because if the property is subdivided in the future it allows the developer to not have to build the roads any smaller. The motion failed.

Variance 4. From the requirement for each lot to abut a public road with legal physical access. Commissioner Tinsley moved to deny the variance request based on the advice of staff. Commissioner Varone seconded the motion based on the advice of the Deputy County Attorney; for example, if a situation arose that required law enforcement to come on to the property they could not do it without a search warrant. The motion to deny carried 2-0.

Variance 5. From the requirement to reconstruct Duffy Lane to a gravel standard, Typical Section No. 1, from the internal access road known as Cape Place Drive to Highway 279. Commissioner Tinsley moved approval of the variance request. Commissioner Varone seconded the motion and it carried 2-0.

Commissioner Tinsley moved approval of the proposed subdivision subject to 16 conditions as outlined in the staff report and allow staff to adjust the conditions as necessary regarding the variances and the amendment to condition 10.j.iii. Commissioner Varone seconded the motion and it carried 2-0.

Proposed Minor Subdivision, Preliminary Plat to be Known as Haub Tract 2 Amended Minor. (Applicant, Linda Stallings) (Planner, Greg McNally) The Commissioners will consider creating three lots each for one single-family dwelling. The proposed subdivision is in the N1/2 of Section 25, T11N, R04W; generally located east and adjacent to Green Meadow Drive and south of John G Mine Road. The applicant was present and indicated her willingness to proceed.

Greg McNally presented the staff report. Access to the lots is off Green Meadow Drive with approved approach permits from MDT. The Helena Valley Irrigation Canal traverses the property. An existing 30-foot public access easement runs east to west from Green Meadow Drive to Applegate Drive and abuts the property. To assist in the interconnection of a road network between Green Meadow Drive and Applegate, the applicant has agreed to provide an additional 30 foot public access easement along the northern property boundary in addition to the existing 30 foot access easement on the northern boundary of this property and to provide a 50 foot setback from Green Meadow Drive. The West Helena Valley Fire District has requested a \$1,000 per lot fee for fire protection for the two lots. Staff recommends approval of the proposed

preliminary plat subject to 13 conditions as outlined in the staff report. Staff recommends the applicant obtain an approach permit at the northern end of Lot 2-A, a second approach to be shared serving lots 2-B and 2-C, and abandon the existing approach to minimize vehicular conflicts and maximize safety.

Dean Retz, 155 All Sports Court, was present representing the applicant. The applicant would like to keep the existing approach because it only serves one dwelling. Condition 11.a should be stricken because individual wells and septs are proposed.

Jim Taylor, TechNet Corporation, explained some of the reservations of easements and setbacks. He suggested the 130-foot right-of-way requirement be stated more clearly in the regulations. The applicant is in agreement with the 30-foot easement on the north side for future road connection network. He can make the project work within the constraints of the 100-foot drain field setback requirement.

Linda Stallings gave a brief history of the property, the existing and proposed easements, and the proposed covenants. The Department of Transportation has approved an access between Lots 2-A and 2-B.

Hearing no other comments, the public hearing is closed. Commissioner Tinsley moved to render a final decision on Thursday, March 16, at the Commission's regularly scheduled public meeting. Commissioner Varone seconded the motion and it carried 2-0.

The Commission took a break at 10 a.m. and reconvened at 10:05 a.m.

Proposed Minor Subdivision, Preliminary Plat to be Known as Felska #1 Minor Subdivision. (Applicant, Dan Felska) (Planner, Greg McNally) The applicant proposes to create five lots each for one single-family dwelling. The proposed subdivision is generally located south of Valley View Road and west of Bartmess Drive. The applicant was present and indicated his willingness to proceed.

Greg McNally presented the staff report. Access to the lots is to be provided from an internal road connecting to Valley View Road and/or an extension of View Road connecting to Bartmess Drive. The applicant has agreed to provide a 60-foot public access easement between the boundaries of Lots A-2 and A-3 and a 30-foot access easement at the southern end of Tract A-5 to provide for future interconnected road network. He will also provide a building envelope on Tract A-5 on the north half of the property that will be adjacent to the internal access road. The property is located within the North Hills Temporary Control Groundwater Study Area. The Montana Department of Environmental Quality has indicated there is substantial and credible evidence of water supply. Valley View Drive should be constructed to gravel standard Typical Section No. 1, or the applicant could provide a pro-rata share to the developers of the North Star PUD for their improvements to Valley View Drive. Staff recommends a no access restriction along Valley View Drive with the exception of where the internal access road enters. The applicant obtained approval for a weed management permit

prior to the road construction. The Applicant has applied for two approach permits from Lewis and Clark County for proposed access onto Valley View Road and View Road. The applicant has received the approach permit for Valley View Road and the permit for View Road is still being processed. A drainage traverses the property and staff recommends a 50-foot setback and a 30-foot buffer on either side of the ordinary high water mark of the drainage. The applicant has requested one variance because tract A-5 has an average depth greater than 3 times its average width. To help mitigate that particular lot size requirement the applicant has included the building envelope on the north end of the lot as well as provided the access easements. Staff recommends approval of the proposed preliminary plat subject to 21 conditions as outlined in the staff report.

Dan Felska stated he may need to apply for a variance from county road standards for construction of View and Bartmess Roads.

Bill Ries, 6850 Green Meadow Drive, representing the applicant, requested a 30-day extension so he can file for a variance for Mr. Felska.

Commissioner Tinsley moved to keep the public record open to April 4 to consider the variance request and render a final decision on April 6. Commissioner Varone seconded the motion and it carried 2-0.

Public comments on matters not mentioned above. None

There was no other business and the meeting adjourned at 10:28 a.m.

LEWIS AND CLARK COUNTY  
BOARD OF COMMISSIONERS

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Anita L. Varone, Chair

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Michael A. Murray, Vice-Chair

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Ed Tinsley, Member

ATTEST:

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Paulette DeHart, Clerk of the Board